

school and library districts to expand their use of telecommunications and will reduce the overall cost of providing services.

**A. By Presuming that a Service Is Eligible for a Discount if It Is Commercially Available, the Coalition's Proposal Relieves the Regulatory Body of the Burden of Deciding What Services Should Be Covered.**

In our initial comments, the Coalition stated that there should be a presumption that if a service is commercially available in an area, then it should be made available to schools and libraries at a discount. The Coalition also stated that the fundamental rule for deciding whether a service should be considered eligible for a discount should be whether the service is now being used by a school or library anywhere in the country. This definition of the level of service would be periodically reviewed and revised to include technologies just short of the leading edge. We now wish to develop and expand this concept somewhat, to illustrate how an expanded presumption will reduce the task before the Joint Board and the Commission.

We propose that if a service is commercially available anywhere in the country, then there should be a rebuttable presumption that a school or library is eligible for that service at a discount. In certain cases -- described further below -- a carrier would be able to present to the Commission or the appropriate state regulator evidence that either (i) the requested service is in fact not commercially available; or (ii) the requested service was in fact not being used by a school or library as of a date specified in the Commission's rules. That date would be some time prior to the effective date of the Commission's rules or their later amendment, but not before the

date of enactment of the Act. This would establish a buffer between the services used by the most advanced schools and the standard available to all at a discount.

Relying on a rebuttable presumption would relieve the Joint Board and the regulators of the obligation of determining in advance what special services should be made available. Regulators would only have to make that determination with respect to a particular service in occasional circumstances when the presumption was challenged.

Such cases will be rare. In most cases, there will be one or more bidders, in which case the willingness to provide the service should be treated as proof of the accuracy of the presumption.

There are two other possible scenarios, however. In the first, there will be a published tariff for the requested service that can serve as the basis for determining the discounted rate. The existence of a tariff would prove that the service is commercially available, but the carrier might choose to contest whether the service is actually eligible for the discount. In that case, it would be relatively simple for the regulatory body to ascertain whether in fact the presumption had been rebutted, by hearing clear and convincing evidence regarding what services were actually used by schools and libraries as of the date set in the rules.

In the second scenario, if there are no bidders and no tariff, the carrier of last resort for the geographic region including the school or library district would be required to provide the service, unless it could show that no school or library in the country was using the requested service on the specified date. This is the only

instance in which the identity of the service provider should be tied to a particular geographic area. The carrier of last resort should be the same carrier designated to provide residential service; there is no reason to designate a different carrier or to go through a separate process for designating one.

This provision for a carrier of last resort is necessary to ensure that all schools and libraries everywhere in the country have access to reasonably comparable services, as required by principles 3 and 6 of Section 254(b). Without this requirement, some rural and high cost areas might never receive an adequate level of service.

We believe that wireless carriers and other alternative service providers will actually be willing to bid in many such instances, so the number of cases in which the carrier of last resort is called on to provide service may not be great. In addition, as discussed above and in our initial comments, the Coalition's proposal will give schools and libraries a wide range of options, so the likelihood that a particular institution will request a high-end service that is not already available in an area is also small. But at the same time, those institutions that have a need and are willing to make the additional investment to obtain a more advanced and more expensive service, should have that option. Otherwise, the goals of the legislation will not be met.

**B. The Coalition's Proposal Requires No Special Certification Procedure or New Application Requirement, and Relies Entirely on the Contracting Procedures Already in Place in Each Jurisdiction.**

As we said in our initial comments, the existing contracting procedures used by the purchasing entity should be the only procedures required to make a bona fide

request for service. There is absolutely no need to establish different standards. Nor is there any need to establish any additional certification requirement. The vast majority of institutions requesting service will clearly be eligible. In the rare case in which a carrier believes that an institution is not eligible for a discount, it may informally request information verifying that the institution meets one of the definitions in Section 254(h)(5). This should satisfy any reasonable concerns about a requesting institution's eligibility.

**C. The 95% Affordability Price Point Can Be Calculated Easily, and Regulatory Agencies Are Already Familiar with the Concept of TSLRIC.**

The primary role for any regulatory body under the Coalition's proposal would be determining the discounted rate. Two primary issues arise in that respect. The first is the computation of the 95% affordability price point. The chart attached as Exhibit B illustrates how this would be done. Using available data and appropriate assumptions for each service, the regulatory body would compute a curve showing the amount of each service that would be bought at a given price. The point at which the amount of the service sold corresponds to 95% market penetration would be the discounted price. This approach may yield only rough approximations with services that are rarely used by schools and libraries, but as more institutions subscribe to a service the data could be refined and a more accurate price calculated. It would not be difficult to gather sufficient data to establish reasonably accurate prices using this method -- the point is to calculate a discounted price that will advance the goals of the statute, not perfect accuracy -- and the data can be refined over time. Consequently, the burden of administering the process should be relatively light.

The second alternative, calculation of TSLRIC, is one that telecommunications regulators are very familiar with and that has been proposed by several other commenters. See, e.g., Comments of LDDS WorldCom at 23; Comments of Missouri Public Service Comm'n at 17-18. Deciding how to compute TSLRIC and what elements to include in the definition of TSLRIC may require discussion by the Joint Board and regulatory entities, but this is a process they are well-prepared to handle.

In short, any proposal will require a mechanism for setting rates, and the Coalition's proposal is no more burdensome in that regard than any other. When other elements of the various proposals are considered as well, the Coalition's is far less burdensome on the whole because it avoids unnecessary state-level procedures or additional local certification requirements.

**V. THE COST OF THE COALITION'S PROPOSAL IS REASONABLE AND COMPARABLE TO THE CURRENT UNIVERSAL SERVICE PLAN.**

Congress was aware of the current universal service program and the costs it imposes on carriers and consumers when it established the new universal service requirement for schools and libraries. Congress must also have anticipated that expanding universal service as it did would impose some additional costs, since Congress did not entirely eliminate the existing mechanism for subsidizing residential service.

The Coalition's proposal is in line with these expectations. For example, the Classroom Model described in the KickStart Report estimates the ongoing cost of T-1 service to the classroom, including internal networks and comparable service in libraries, as roughly \$1.7 billion per year. We support the conclusions and

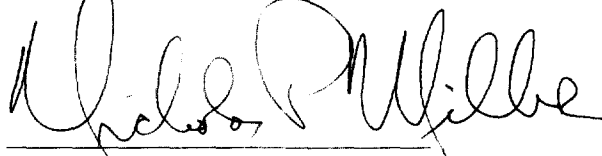
recommendations of the KickStart Report, but must note that the costs cited in that report may be inaccurate for two reasons. First, if the costs were based on current rates quoted by service providers, they may be much higher than actual costs. In addition, if cable operators are able to use their existing plant to provide a significant amount of service, costs may be even lower. See discussion at III.A, supra. Thus, we believe the KickStart Report's figures should be considered an upper limit on costs.

In any event, the Annual Report of the National Exchange Carrier Association for 1995 states that approximately \$735 million flowed through the current universal service fund in 1995. This amount does not include internal flows borne by the seven Bell operating companies, nor does it include any intrastate subsidies. The existing total cost of universal service, nationwide, therefore appears to be substantially more than \$735 million, and certainly of the same order of magnitude as the Kickstart Report's estimate of \$1.7 billion. Including the KickStart Report's initial deployment costs increases the total cost, although, as noted above, the KickStart Report's figures should be considered an upper bound and actual costs may well be lower. In any case, the Coalition's proposal is within the realm of experience and thus within the ambit of reasonable Congressional expectations of the cost of implementing Section 254(h).

### Conclusion

For the foregoing reasons, the joint commenters urge the Joint Board to recommend that the Commission adopt rules in a timely manner that ensure that all eligible schools and libraries have access to the broadest permissible range of services, at prices that will deliver the benefits of modern telecommunications technology nationwide.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nicholas P. Miller", written over a horizontal line.

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May 7, 1996

Certificate of Service

I hereby certify that I have caused to be mailed this 7th day of May, 1996,  
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by first class mail, postage prepaid, to the following persons:

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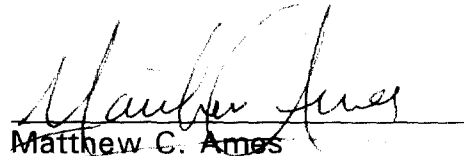
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Matthew C. Ames

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May 7, 1996

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# **EXHIBIT A**

## **United States Senate**

WASHINGTON, DC 20510

April 24, 1996

The Honorable Reed E. Hundt  
Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Federal-State Joint Board on Universal Service  
(CC Docket No. 96-45)

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Dear Mr. Chairman:

The Telecommunications Act of 1996 has the potential to open new doors for Americans everywhere to the exciting realm of technologically assisted education and life-long learning, and improve access to health care in rural areas. As the chief sponsors of new Section 254(h) of the 1996 Act -- the Snowe-Rockefeller-Exon-Kerrey provision -- we believe it is imperative for our nation's universal service system to assure that children and other community users -- particularly in rural areas -- have affordable access to the national information superhighway. Telecommunications transmission costs in rural, remote and underserved areas are much more expensive because of the vast geography and/or low population density.

The Snowe-Rockefeller-Exon-Kerrey provision of the universal service section of the 1996 Act was specifically intended to ensure that our nation's elementary and secondary (K-12) schools, libraries, and rural health care providers have affordable access to essential advanced telecommunications services. If implemented as intended by Congress, the universal service provisions of the Act in general, and new Section 254(h) in particular, will empower individuals by making education and health care accessible to all Americans, regardless of their location, economic status, age or disability.

Section 254(h), if implemented properly, will dramatically change the ways in which American children learn, how adults upgrade their skills, and how rural health care is provided. We urge you and members of the Federal-State Joint Board on Universal Service to act swiftly to fully implement Section 254(h) of the 1996 Act.

### **Schools and Libraries**

New Section 254(h) requires all telecommunications carriers, upon request, to provide primary and secondary schools and libraries access to educational telecommunications services at affordable rates. The Act allows the Commission to designate "special" services, and advanced services, that are eligible for universal service support where a customer is an eligible K-12 school or library.

The Honorable Reed E. Hundt  
April 24, 1996  
Page 2

During the crafting of this legislation in the Senate, we recognized that we had an opportunity to do more than simply open the telecommunications markets to competition -- we also had an opportunity to prepare our children and grandchildren for the future. One of the most important aspects of the information superhighway is its potential to transmit information across traditional boundaries of time and space. This has dramatically changed the way American school children learn and its influence will only increase in the future. As a result, telecommunications can help us provide a world class education to children across America.

We fought to ensure that Section 254(h) remained in the 1996 Act, because it is imperative that the on-ramps to the information superhighway be accessible to all Americans. We cannot tolerate an educational system in the United States that "bypasses" Americans along economic or rural-urban boundaries. Indeed, on June 8, 1995, the United States Senate overwhelmingly endorsed Section 254(h) by a recorded vote of 98 to 1.

Technologically, the world around us is moving swiftly into the 21st century. Our schools, unfortunately, are not. In many areas -- both rural and urban -- they in effect continue to operate in the 19th century, unable to access and utilize the benefits of modern technology. And while technology is certainly no panacea for the problems we face in public education, it can be a useful tool in educational reform and student performance.

We have read the reports of remarkable progress made when the computer serves the curricula-based needs of teachers and students. And, we have seen how individualized study, coupled with the power of collaboration unlimited by time or distance, can hold a student's attention. We designed this important provision to give children in Harvard and Cambridge, Nebraska, opportunities to use telecommunications technologies to learn from libraries and scholars at Harvard and Cambridge Universities by taking long distance, adding value, and transforming it -- via distance learning networks -- into "strong" distance.

Through Internet access, classroom networking, and distance learning, we can lead America's students on an educational journey that will take them around the globe into the world's finest museums, its cutting-edge laboratories, and most prestigious institutions of learning. The journey made possible by the revolution in information technology will enable students to do all these things from classrooms and living rooms. The skills they can acquire through technologically-enhanced learning will help them secure meaningful employment and become informed citizens in a democratic society.

More than a third of all U.S. schools, however, cite *costly telecommunications rates* as the primary barrier to maximizing the use of their telecommunications capabilities. Some schools not only have minimal service, but pay the highest rates in their community. The cost of connectivity and the difficulty these relatively small customers have when requesting service is almost universal.

In addition, rural schools and libraries usually pay more for access to information services than schools and libraries in urban areas, because the information service providers do not have access points in local calling regions, meaning that rural schools and libraries must make a long distance telephone call to access the Internet and other information services.

Thus, as the Commission and the Federal-State Joint Board craft recommendations for the types of services that will be available to K-12 schools and libraries under the universal service system, we encourage you to focus on the particular needs of our children as we enter the 21st Century. A wide variety of services will become commonplace in the workplace of tomorrow, much as the fax and desktop computer have become commonplace today. Therefore, the broader your vision -- the better prepared the students of tomorrow can be.

In addition, because of the specific needs of rural areas, we encourage you to fulfill the requirements of the 1996 Act -- and one of its principal underlying goals -- in a manner that ensures we do not create a nation of technological "haves" and "have nots" based on economic or rural-urban boundaries. Not every school may want precisely the same services, but as with the intent of the Snowe-Rockefeller-Exon-Kerrey provision, the goal is *affordable access*. We should not let a two-tiered education system develop in which wealthier school districts train students on advanced telecommunications technologies, but rural areas and poorer school districts are left out.

For this reason, we believe that it is vital for the Commission and the Federal-State Joint Board to carefully review the special challenges and needs of rural schools and libraries and take action to ensure that the discount provided makes access for these community users truly affordable. To fulfill the intent of the law, every school and library submitting a bona fide request deserves a significant, real, and meaningful discount that ensures classrooms and libraries access to the information superhighway. It is also essential that definitions of "special" services and advanced services be allowed to evolve to include changes and improvements in technology.

### Health Care Providers

Turning to the telemedicine portion of the Snowe-Rockefeller-Exon-Kerrey provision, we believe it would be helpful to review telemedicine efforts that are currently in operation to establish comparable rates for rural areas. But while the review is underway, and the Commission works on its proposed rulemaking, there is no reason to delay the implementation of the benefits of the health care provisions of Section 254(h) in obvious instances.

While the basic start-up costs for acquiring telemedicine technology are coming down, transmission costs remain unaffordable for many health care providers. According to the Federal Office of Rural Health Policy, telecommunications transmission prices based on distance are a significant financial barriers to telemedicine in rural areas.

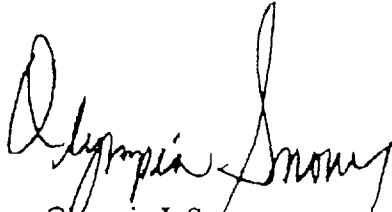
Just one example, a small rural hospital in West Virginia, reported that the estimated charge for a T1 line to allow it to hook up with a larger hospital was an unaffordable \$4300 a month. The cost of transmission must be lowered if telemedicine is to become economically feasible for many rural communities.

Where it is in use, telemedicine is an expanding, important part of healthcare in rural America. It means that a paramedic at the scene of an auto accident will be able to send video and medical data straight to physicians and receive recommendations from those physicians within minutes. A family practitioner in a small town in West Virginia, Maine, Nebraska or any state will be able to consult with a specialist at a regional hospital instantly. This will save the patient an extended, costly, lengthy, perhaps painful trip to the specialist.

Telemedicine has enormous promise to expand access and quality health care to rural areas if telecommunications costs become affordable, as promised in the Snowe-Rockefeller-Exon-Kerrey provisions of the 1996 Act that were signed into law.

### Conclusion

Implementation of the Snowe-Rockefeller-Exon-Kerrey amendment to the 1996 Act will require creative efforts and consistent oversight to ensure that the provisions and discounts meet the needs of American classrooms, libraries and rural health care providers. As the Commission and the Federal-State Joint Board implement this bold new law to overhaul our nation's universal service system, we urge you to implement Section 254(h) in a broad, comprehensive and flexible manner, and look forward to working with you to make our dream in drafting this legislation become a reality.

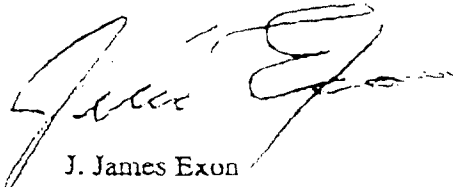


Olympia J. Snowe

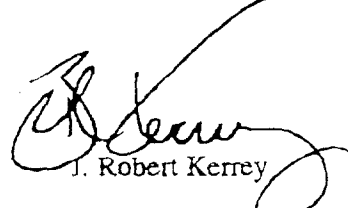
Sincerely,



John D. Rockefeller IV



J. James Exon

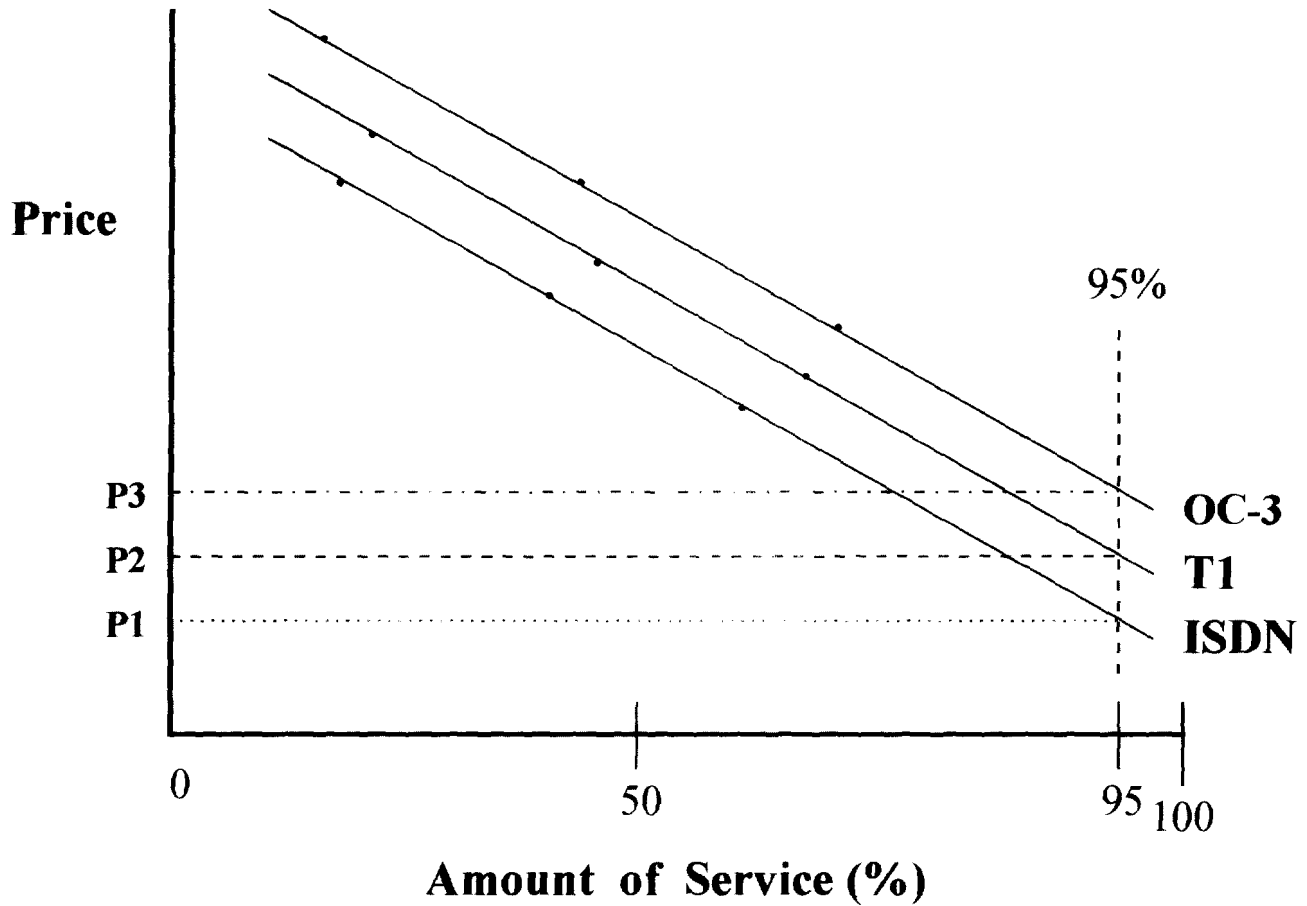


J. Robert Kerrey

cc: The Honorable James Quello  
The Honorable Susan Ness  
The Honorable Rachelle Chong  
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The Honorable Sharon L. Nelson  
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Martha S. Hogerty, Esq.

## **EXHIBIT B**

### **Determination of Affordability Price Points**



- P1 = Price at which 95% of schools and libraries would purchase ISDN Service  
P2 = Price at which 95% of schools and libraries would purchase T-1 Service  
P3 = Price at which 95% of schools and libraries would purchase OC-3 Service